

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

DEPT. OF TRANSPORTATION
DOCKETS

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In the Matter of:

ACCENT MOVERS, INC.,

Respondent.

**Docket No. FMCSA-2007-0089¹
(Southern Service Center)**

ORDER APPOINTING ADMINISTRATIVE LAW JUDGE

1. Background

On August 31, 2007, the Texas Division Administrator, Federal Motor Carrier Safety Administration (FMCSA), issued a Notice of Claim to Respondent, Accent Movers, Inc., proposing a civil penalty of \$25,000 for one alleged violation of 49 CFR 392.9a(a)/14901(d)(3),² for failing to register or maintain registration as a household goods broker or motor carrier.³

On September 25, 2007, Respondent replied to the Notice of Claim, denying the charge. It stated that at the time of the inquiry concerning the transportation of household goods from California to Texas, it was engaged only in intrastate transportation within Texas. Respondent contended that it referred the move to a driver who it assumed was employed by an interstate carrier, averring that it did not broker the move or participate in

¹ The prior case number of this matter was TX-2007-1354-US0739.

² The correct statutory cite is 49 U.S.C. § 14901(d)(3).

³ See Government Exhibit 1 to Field Administrator's Consent to Respondent's Request for Hearing.

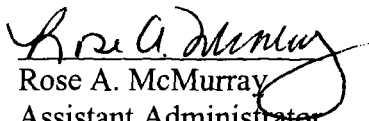
the shipment. Citing 49 U.S.C. § 521(b)(2)(D) and § 5123(c)(3),⁴ Respondent argued that taking into consideration the nature, circumstances, extent, and gravity of the violations, as well as its ability to pay and the effect of the civil penalty on its ability to do business, a reduction of the proposed \$25,000 civil penalty is warranted.⁵

On December 17, 2007, Claimant consented to Respondent's request for a hearing. Although this matter is being forwarded to the U.S. Department of Transportation's Office of Hearings, it must be pointed out that \$25,000 is the minimum civil penalty under the statute.⁶

2. Appointment of Administrative Law Judge

In accordance with 49 CFR 386.54, an administrative law judge is hereby appointed, to be designated by the Chief Administrative Law Judge of the Department of Transportation, to preside over this matter and render a decision on all issues. The proceeding shall be governed by subparts D and E of 49 CFR Part 386 of the revised Rules of Practice and all orders issued by the administrative law judge.

It Is So Ordered.


Rose A. McMurray

Assistant Administrator
Federal Motor Carrier Safety Administration

11-7-08
Date

⁴ The factors to be considered in determining the civil penalty for a violation of FMCSA's commercial regulations are found at 49 U.S.C. § 14901(c), not at the citations set forth by Respondent.

⁵ See Government Exhibit 2 to Field Administrator's Consent to Respondent's Request for Hearing.

⁶ See 49 U.S.C. § 14901(d)(3) ("such person is liable to the United States for a civil penalty of not less than \$25,000 for each violation."); see *In the Matter of Old Baymeadows Movers, Inc.*, Docket No. FMCSA-2006-25062, Final Order, September 22, 2008, at 7-8.

CERTIFICATE OF SERVICE

This is to certify that on this 12 day of November, 2008, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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Original
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A handwritten signature in cursive script, reading "Jennie Miller", is written over a horizontal line.